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MONTANA FOURTH JUDICIAL DISTRICT COURT  
MISSOULA COUNTY

RATTLER HOLDINGS, LLC, d/b/a  
PLANETARY DESIGN,

Plaintiff,

-VS-

UNITED PARCEL SERVICE, INC. and UPS  
SUPPLY CHAIN SOLUTIONS, INC.

Defendants.

Cause No.  
Dept. No.:

**COMPLAINT AND JURY DEMAND**

Rattler Holdings, LLC, d/b/a Planetary Design, submits this Complaint against Defendants UPS Supply Chain Solutions, Inc. and United Parcel Service, Inc., and alleges as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Rattler Holdings, LLC, d/b/a Planetary Design (“Planetary Design”), is a Montana limited liability company with its principal place of business in

Missoula County, Montana. Planetary Design sells travel French presses, drinkware, and coffee and dry goods storage containers.

2. Defendant UPS Supply Chain Solutions, Inc. (“UPS SCS”) is a subsidiary of United Parcel Service, Inc. (collectively “UPS”), an American multinational package delivery and supply chain management company incorporated in Delaware with its principal place of business in Georgia. UPS SCS (China) Limited (“UPS SCS China”) is a division of UPS SCS.

3. Jurisdiction and venue are proper in Missoula County pursuant to Montana Code Annotated § 25-2-122 and Rule 4 of the Montana Rules of Civil Procedure.

**FACTUAL ALLEGATIONS RELEVANT TO ALL CLAIMS**

4. Planetary Design’s warehouse is located in Bonner, Montana. It sells its products in the United States and internationally. Many of its products are manufactured in China.

5. Historically, Planetary Design utilized UPS’s services to ship its goods manufactured in China to its warehouse in Bonner. The goods were then shipped from Bonner to Planetary Design’s distributors and customers.

6. In the spring of 2017, Planetary Design decided to explore the option of having its Chinese goods shipped from China directly to its international distributors and customers to eliminate unnecessary expenditures and reduce

delivery times.

7. UPS purports to have expertise in global trade, import and export, and international regulations, and it represents itself as a “knowledgeable guide to help [companies] navigate international commerce.” (See UPS Supply Chain Solutions website, available at: <https://www.ups-scs.com/international/> (last accessed Jan. 29, 2020).)

8. On July 7, 2017, Jonathan Dimmick, Planetary Design’s Purchasing Agent, e-mailed Matthew Deutsch, Planetary Design’s UPS Account Manager, to find out if UPS could provide international logistical services to Planetary Design.

9. Matthew Deutsch connected Planetary Design with Ella Wu, Business Development Manager for UPS, regarding UPS’s ability to consolidate and store Planetary Design’s goods in China and to ship them to Planetary Design’s international distributors and customers.

10. Johnathan Dimmick and Ella Wu corresponded back and forth regarding the services Planetary Design was seeking. Matthew Deutsch, as Planetary Design’s UPS Account Manager, was copied on nearly all emails regarding the contract negotiation for supply chain services with UPS.

11. In December 2017, Planetary Design, Matthew Deutsch, and employees of UPS SCS China participated in a conference call to discuss UPS’s warehouse and shipping services in China.

12. The arrangement with UPS SCS China was to include both the storage of goods in China and the shipment of goods from the UPS warehouse in China to Planetary Design's distributors and customers.

13. In January 2018, in reliance upon Matthew Deutsch's involvement in the contract negotiations and role in connecting Planetary Design with UPS's international supply chain services, the conference call in December 2017, and UPS's purported expertise in international commerce, Planetary Design entered into a Logistics Services Agreement with UPS SCS China for the storage and shipment of its inventory out of China.

14. Planetary Design entered into the Logistics Services Agreement with UPS SCS China in reliance upon assurances by the UPS representatives that it could both store Planetary Design's inventory in China and ship the inventory out of China.

15. Planetary Design would not have entered into the Logistics Services Agreement if it knew UPS SCS China could not handle both storing and shipping its inventory out of China.

16. After entering into the Logistics Services Agreement with UPS SCS China, Planetary Design began the process of moving goods to the UPS SCS China warehouse and also authorized purchase orders from various international customers based on the Logistics Services Agreement.

17. In February 2018, UPS representative Helen Wang informed Planetary Design that shipments were being delayed due to overbooking.

18. On February 14, 2018, Jonathan Dimmick contacted Matthew Deutsch for assistance in expediting shipments from China. Matthew Deutsch responded on the same day that he would “reach out to our Ocean team and see what can be done.”

19. After months of delays and UPS failing to ship product out of the warehouse, Planetary Design discovered that UPS SCS China was unable to export Planetary Design’s inventory.

20. Matthew Deutsch sent an email to Ella Wu on September 4, 2018 asking UPS SCS China personnel to contact Planetary Design regarding their concerns with UPS SCS China’s services.

21. On September 5, 2018, Ella Wu stated via email that “UPS warehouse operation staff is responsible for warehouse inbound receiving, inventory management and warehouse outbound picking.”

22. Also on September 5, 2018, Bob Ballengee, Director of Operations for Planetary Design, forwarded Ella Wu’s email to Matthew Deutsch and stated, “We should have been advised by UPS that they could not provide logistics and export support for goods being stored in their warehouse.”

23. UPS SCS China billed Planetary Design for storing its product in UPS

SCS's China warehouse even though it was not able to provide the support Planetary Design required to ship the product out of the warehouse to its international customers. In effect, UPS billed Planetary Design for services that were of no value given that UPS was unable to provide the additional services Planetary Design needed to get its product to its customers.

24. In September 2018, Planetary Design worked with Matthew Deutsch to address UPS SCS China's billing statements, which it believed were unreasonable under the circumstances.

25. On September 13, 2018, Planetary Design requested relief from Matthew Deutsch for the payment of invoices from UPS SCS China because Planetary Design was "mis-directed by UPS into a service that does not and never has provided us with the services we need."

26. After several months of UPS SCS China's failure to ship products out of the warehouse, Planetary Design terminated the Logistics Services Agreement on or around September 28, 2018.

27. Finally on October 8, 2018, Ella Wu explained to Bob Ballengee that UPS SCS China listed Planetary Design as the "exporter of record," i.e., the company authorized to export goods out of China.

28. Upon information and belief, neither Planetary Design nor UPS were authorized to export Planetary Design's goods out of China from the UPS non-

bonded warehouse in Shanghai.

29. Neither UPS nor UPS SCS China explained this to Planetary Design until Ella Wu's October 8, 2018, email. Nearly 10 months went by before UPS was forthcoming that it could not meet Planetary Design's needs.

30. UPS representatives either knew, or should have known, that UPS could not ship goods out of China and that Planetary Design was not qualified to be an exporter of record.

31. After entering into the Logistics Services Agreement, but before learning of UPS's inability to export goods out of China, Planetary Design entered into numerous sales agreements for the sale of its products to customers worldwide.

32. Due to UPS's inability to export goods from UPS SCS China's warehouse and UPS's misrepresentation, Planetary Design suffered damages due to lost sales, replacement orders, and the lost confidence of its customers.

33. After terminating the Logistics Services Agreement, UPS SCS China refused to cooperate with Planetary Design's new export company to remove Planetary Design products from the UPS warehouse in China until Planetary Design paid outstanding invoices. Planetary Design disputed these invoices due to UPS SCS China's providing incomplete services under the Logistics Services Agreement.

34. Planetary Design contacted UPS representatives Matthew Deutsch and Letty Thompson in October 2018 expressing its grievance with UPS's misrepresentations and the delayed removal of Planetary Design products from the UPS warehouse in China.

35. On October 12, 2018, Letty Thompson, the UPS Northwest Area Sales Manager, apologized for UPS's misrepresentation to Planetary Design regarding the services it could provide in China.

36. Planetary Design sent demand letters to UPS on December 17, 2018 and June 4, 2019 seeking recognition from UPS of its misrepresentation and relief for Planetary Design's damages due to such misrepresentation.

37. UPS responded on August 7, 2019 denying any liability on the part of UPS.

### **COUNT 1 – NEGLIGENCE**

38. The above allegations are incorporated by reference.

39. UPS negligently failed to disclose material facts regarding its ability to provide full-service storage and exportation of goods out of China.

40. UPS had a duty to exercise reasonable care to obtain and supply accurate information concerning its ability to both store and ship Planetary Design's products out of China.

41. UPS breached that duty by failing to obtain and supply accurate



information concerning its ability to export products out of China, and it made false representations to Planetary Design about its ability.

42. UPS knew or should have known that neither UPS nor Planetary Design could serve as an exporter of record in China, and therefore, UPS misrepresented the type of logistical services it could provide to Planetary Design.

43. UPS's breach caused Planetary Design damages.

**COUNT 2 – CONSTRUCTIVE FRAUD**

44. The above allegations are incorporated by reference.

45. UPS represented to Planetary Design that it could fulfill Planetary Design's storage and shipping needs as an international distributor.

46. UPS represented that it could export Planetary Design's products out of China.

47. UPS did not disclose the material fact that it was not able to ship products out of China.

48. By its misrepresentations and omissions, UPS created the false impression that it could fulfill the material terms of the parties' agreement.

49. UPS's representations and omissions were made to induce Planetary Design to use UPS's services.

50. Planetary Design had no notice that UPS could not export Planetary Design's products out of China.

51. Planetary Design reasonably relied upon UPS's representations and was induced to enter into a contract for the storage and shipment of goods with UPS SCS China.

52. As a result of Planetary Design's reliance on UPS's representation, Planetary Design has sustained damage.

53. Planetary Design is entitled to damages from UPS in an amount to be determined at trial.

**COUNT 3 – NEGLIGENT MISREPRESENTATION**

54. The above allegations are incorporated by reference.

55. UPS represented to Planetary Design that it could fulfill Planetary Design's storage and shipping needs as an international distributor.

56. UPS's representation that it could ship products out of China was false.

57. UPS made such representation without any reasonable grounds for believing it to be true.

58. UPS's representation that it could store and ship Planetary Design's products from China was made with the intent to induce Planetary Design, in reliance upon such representation, to use UPS's services.

59. At the time UPS made the representation, Planetary Design was unaware of the falsity of that representation.

60. Planetary Design acted in reliance upon UPS's representation and was induced to enter into a contract for the storage and shipment of goods with UPS SCS China.

61. Planetary Design was justified in relying on UPS's representation.

62. As a result of Planetary Design's reliance on UPS's representation, Planetary Design has sustained damage.

63. Planetary Design is entitled to damages from UPS in an amount to be determined at trial.

### **RELIEF REQUESTED**

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, as follows:

A. Compensatory and consequential damages in an amount to be proved at trial;

B. Attorney fees and costs of action; and

C. Such additional relief as this Court deems warranted under the circumstances.

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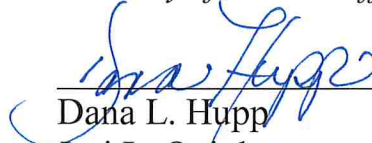
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**DEMAND FOR JURY TRIAL**

Planetary Design demands a trial by jury on all issues presented in this Complaint that are so triable.

DATED this 2<sup>nd</sup> day of February 2020.

WORDEN THANE P.C.  
*Attorneys for Plaintiff*

  
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